

E-Filed on 7/12/07

1 **DIAMOND MCCARTHY LLP**

909 Fannin, Suite 1500
 Houston, Texas 77010
 Telephone (713) 333-5100
 Facsimile (713) 333-5199

Allan B. Diamond, TX State Bar No. 05801800
 Email: adiamond@diamondmccarthy.com
 Eric D. Madden, TX State Bar No. 24013079
 Email: emadden@diamondmccarthy.com

5 Special Litigation Counsel for USACM Liquidating Trust

2 **LEWIS AND ROCA LLP**

3993 Howard Hughes Parkway, Suite 600
 Las Vegas, NV 89169-5996
 Telephone (702) 949-8320
 Facsimile (702) 949-8321

Susan M. Freeman, AZ State Bar No. 004199
 Email: sfreeman@lrlaw.com
 Rob Charles, NV State Bar No. 006593
 Email: rcharles@lrlaw.com

6 Counsel for USACM Liquidating Trust

7 **UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA**

8 In re:

9 USA COMMERCIAL MORTGAGE
 COMPANY,

10 USA CAPITAL REALTY ADVISORS,
 LLC,

11 USA CAPITAL DIVERSIFIED TRUST
 DEED FUND, LLC,

12 USA CAPITAL FIRST TRUST DEED
 FUND, LLC,

13 USA SECURITIES, LLC, Debtors.

14 **Affects:**

- All Debtors
- USA Commercial Mortgage Company
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA Capital First Trust Deed Fund, LLC
- USA Securities, LLC

Case No. BK-S-06-10725-LBR
 Case No. BK-S-06-10726-LBR
 Case No. BK-S-06-10727-LBR
 Case No. BK-S-06-10728-LBR
 Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
 BK-S-06-10725 LBR

**Motion For Order Requiring Capital
 Title Agency, Inc. To Produce One Or
 More Representatives For
 Examination Pursuant To Federal
 Rule Of Bankruptcy Procedure 2004**

[No hearing required]

21 Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating
 22 Trust (the "Trust" or "Movant") moves this Court for an order requiring Capital Title
 23 Agency, Inc. ("Capital Title") to produce one or more representatives, as set forth in the
 24 subpoena to be issued under Federal Rule of Bankruptcy Procedure 9016, to appear for
 25 examination at the office of Lewis and Roca LLP, 19th Floor, 40 N. Central Avenue,
 26 Phoenix, Arizona 85004-4429, on a business day no earlier than 10 business days after the

1 filing of this Motion and no later than August 10, 2007, or at such other mutually
 2 agreeable location, date, and time, and continuing from day to day thereafter until
 3 completed.

4 This Motion is further explained in the following Memorandum.

5 **Memorandum**

6 The Trust seeks information concerning escrows opened or handled by Capital Title
 7 on behalf of USACM, the other debtors in the above-captioned cases (together with
 8 USACM, the “Debtors”), and the Debtors’ affiliates, subsidiaries, parents, or otherwise
 9 related entities. The Trust seeks this information to assist in the collection of the assets
 10 and the investigation of the liabilities of the Debtors.

11 The requested discovery from Capital Title is within the scope of examination
 12 permitted under Bankruptcy Rule 2004, which includes:

13 [t]he acts, conduct, or property or . . . the liabilities and financial condition
 14 of the debtor, or . . . any matter which may affect the administration of the
 15 debtor’s estate, or to the debtor’s right to a discharge. In a . . .
 16 reorganization case under chapter 11 of the Code, . . . the examination may
 17 also relate to the operation of any business and the desirability of its
 continuance, the source of any money or property acquired or to be acquired
 by the debtor for purposes of consummating a plan and the consideration
 given or offered therefore, and any other matter relevant to the case or to the
 formulation of a plan.¹

18 **Conclusion**

19 Accordingly, the Movant requests that this Court enter the form of order submitted
 20 with this Motion.

21 Dated: July 12, 2007.

22

23

24

25

26

¹ Fed. R. Bankr. P. 2004(b).

DIAMOND MCCARTHY LLP

By: /s/ Eric D. Madden
Allan B. Diamond, TX 05801800 (pro hac vice)
William T. Reid, IV, TX 00788817 (pro hac vice)
Eric D. Madden, TX 24013079 (pro hac vice)
909 Fannin, Suite 1500
Houston, Texas 77010
(713) 333-5100 (telephone)
(713) 333-5199 (facsimile)

*Special Litigation Counsel for
USACM Liquidating Trust*

LEWIS AND ROCA LLP

By: /s/ Rob Charles
Susan M. Freeman, AZ 4199 (pro hac
vice)
Rob Charles, NV 6593
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169-5996
(702) 949-8320 (telephone)
(702) 949-8321 (facsimile)

Counsel for USACM Liquidating Trust